

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NEW YORK EMBROIDERY STUDIO, INC,

Plaintiff,

COMPLAINT

v.

Civil Case No.

UNIFIRE, INC.,

Defendant.

Plaintiff, New York Embroidery Studio, Inc., by its attorneys, the Camardo Law Firm, P.C.
by and for its Complaint against the Defendant, Unifire Inc., alleges as follows:

PARTIES

1. Plaintiff, New York Embroidery Studio, Inc. (“Plaintiff” or “NYES”) is a New York State Corporation with a principal place of business at 307 W 36th St, 3rd Floor, New York, NY 10018.

2. Upon information and belief, the Defendant, Unifire, Inc. (“Defendant” or “Unifire”) is a Washington Corporation with a principal office at 3904 E. Trent Ave., Spokane WA 99202.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and NYES is a permanent resident of the United States and is not domiciled in the same State as Unifire.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 in that NYES has its principal place of business within the Southern District of New York.

STATEMENT OF FACTS

5. Upon information and belief, on or about September 14, 2020, Unifire entered into two Indefinite Delivery, Indefinite Quantity (“IDIQ”) contracts with United States Defense Logistic Troop Support Agency (“DLA”) for the supply of “Disposable Isolation Gowns” (Contract Nos. SPE1C120D1344 and SPE1C120D1345).

6. Subsequent to the award of the contracts to Unifire, it entered into an informal agreement with Contollo Mass Manufacturing LLC (“CMM”), which resulted in Unifire issuing to CMM for Purchase Orders (“PO”) for disposable isolation gowns. PO No.: SPE1C120F8185 was in the amount of \$4,771,669.50 dated September 18, 2020. PO No.: SPE1C120F8337 was in the amount of \$2,762,545.50 dated September 29, 2020. PO No.: SPE1C120F8340 was in the amount of \$2,501,928.00 dated September 29, 2020. The POs were signed by both Unifire and CMM.

7. Contollo subsequently subcontracted the production of the gowns to NYES. NYES manufactured and delivered the ordered disposable gowns.

8. All of the gowns ordered by Unifire were delivered by Contollo. However, Unifire has failed to and has refused to fully pay Contollo for certain gowns that were delivered and received, despite numerous requests and demands being made.

9. On August 20, 2021, NYES demand payment from Unifire and Contollo in the amount of \$400,000.00. The demand letter further noted that based upon information and belief,

payment had been obtained by the Government under Unifire's representation that vendors and subcontractors had been paid.

10. On October 7, 2021, NYES and Contollo entered into an Assignment and Cooperation Agreement, wherein Contollo assigned, conveyed and transferred to NYES all its rights, title and interest in and to the accounts receivable from Unifire under Contollo's Invoice Nos. 84212 and 84216, which was forwarded to Unifire's Counsel.

11. Prior to NYES shipping product, Unifire represented that no penalties would be assessed for any claims for late shipments.

12. NYES further alleges that Unifire was not penalized by the DLA for any late shipments and were paid full contract price for each garment.

13. Unifire has been paid for invoiced amounts to the Government in the amount of \$9,553,342.50, but continues to refuse to forward that payment to subcontractors. The conduct on the part of Unifire is egregious.

**FIRST CAUSE OF ACTION
(Breach of Contract)**

14. NYES repeats and re-alleges all allegations in paragraphs 1 through 13.

15. Unifire entered into three POs with Contollo for production and delivery of isolation gowns pursuant to Unifire's contract with the Government.

16. Contollo subcontracted its obligations the POs to NYES.

17. NYES has produced and supplied the gowns, but has not been paid for the gowns.

18. Contollo has signed all of its rights under said POs to NYES.

19. Unifire has billed the Government for \$9,553,342.50 for gowns under its contracts with the Government, but has refused to forward that money onto its subcontractor.

20. NYES has been damaged in the amount of \$400,000.00.

**SECOND CAUSE OF ACTION
(Breach of Contract)**

21. NYES repeats and re-alleges all allegations in paragraphs 1 through 20.

22. As a result of the Unifire's breach, pursuant to the Uniform Commercial Code, NYES is entitled to recover damages in an amount to be proven at trial, but believed to be \$400,000.00.

**THIRD CAUSE OF ACTION
(Implied Contract)**

23. NYES repeats and re-alleges all allegations in paragraphs 1 through 22.

24. NYES supplied gowns to Unifire pursuant to Unifire's Government contract.

25. NYES has not been paid for the gowns that it supplied, despite Unifire being paid by the Government.

26. As a result, NYES has been damaged in the sum of \$400,000.00.

WHEREFORE, Plaintiff demands judgment as follows:

1. On its First Cause of Action, damages against Unifire in the amount of \$400,000.00;

2. On its Second Cause of Action, damages against Unifire in the amount of \$400,000.00;

3. On its Third Cause of Action, damages against Unifire in the amount of \$400,000.00;

4. Awarding Plaintiff's interest, costs, disbursements, and attorney fees;
5. For such other and further relief as the Court shall deem proper and just.

Dated: June 2, 2023
Auburn, New York

S/ Joseph A. Camardo, Jr.
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